

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THEODORE R. HUGHES, ETHEL KAISER,	:	
NICK PRIVITELLO, ROBERT J. RIZZI,	:	
	:	
Plaintiffs,	:	
	:	ORDER ADOPTING REPORT
	:	AND RECOMMENDATION
-against-	:	11-CV-2692 (JFB) (JMW)
	:	FILED
TOMMY CONSTANTINE (f/k/a Tommy	:	CLERK
Hormotvitis),	:	
	:	3:58 pm, Sep 02, 2021
Defendant.	:	U.S. DISTRICT COURT
	:	EASTERN DISTRICT OF NEW YORK
-----X	:	LONG ISLAND OFFICE

JOSEPH F. BIANCO, Circuit Judge (sitting by designation):

On June 3, 2011, plaintiffs filed the complaint in this action against defendant Tommy Constantine. On March 5, 2019, Magistrate Judge Shields¹ issued a Report and Recommendation (the “R&R,” ECF No. 54), recommending that the case be dismissed with prejudice for failure to prosecute. (*See* R&R, at 7.) The R&R instructed that any objections to the R&R be submitted within fourteen (14) days of service of the R&R. (*Id.*) No objections have been filed to date, although the date for filing such objections has expired. The Court has also received no communications from the parties since February 10, 2017. (ECF No. 53.)

A district judge may accept, reject, or modify, in whole or in part, the findings and recommendations of the Magistrate Judge. *See DeLuca v. Lord*, 858 F. Supp. 1330, 1345 (S.D.N.Y. 1994); *Walker v. Hood*, 679 F. Supp. 372, 374 (S.D.N.Y. 1988). As to those portions of a report to which no “specific written objections” are made, the Court may accept the findings

¹ On May 24, 2021, this case was reassigned to Magistrate Judge Wicks.

contained therein, as long as the factual and legal bases supporting the findings are not clearly erroneous. See Fed. R. Civ. P. 72(b); *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *Greene v. WCI Holdings Corp.*, 956 F. Supp. 509, 513 (S.D.N.Y. 1997).

Having conducted a review of the full record and the applicable law, and having reviewed the R&R for clear error, the Court adopts the findings and recommendations contained in the R&R in their entirety.² Accordingly,

IT IS HEREBY ORDERED that the case is dismissed with prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of the Court shall enter judgment accordingly and close the case.

SO ORDERED.

/s/Joseph F. Bianco

JOSEPH F. BIANCO
UNITED STATES CIRCUIT JUDGE
(sitting by designation)

Dated: September 2, 2021
Central Islip, NY

² Even under a *de novo* standard of review, the Court would adopt the R&R in its entirety for the same reasons contained in the R&R.